

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Physician Practice; Telemedicine (LAC 46:XLV.7505)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board intends to amend its rules governing telemedicine to delete the words “in this state” from 7505C. for consistency with the law and so that, as applied, the Rule would not inadvertently prevent physicians from prescribing medication or other health care services to their patients who may be vacationing or temporarily outside of Louisiana, to the extent that such activities or practices are lawful and permitted by the medical licensing authorities in other jurisdictions. The proposed amendment is set forth below.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

##### Subpart 3. Practice

#### Chapter 75. Telemedicine

##### Subchapter A. General Provisions

#### §7505. Patient Relationship; Standard of Care; Location of Participants

A. - B. ...

C. Location of Participants. A physician using telemedicine may be at any location at the time the services are provided. A patient receiving medical services by telemedicine may be in any location at the time that the services are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017), LR 45:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

#### Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on organizations that provide services for individuals with developmental disabilities has been

considered. It is not anticipated that the proposed amendment will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

#### Small Business Statement

It is not anticipated that the proposed amendment will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

#### Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., May 21, 2019.

#### Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Thursday, May 30, 2019 at 11:30 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Physician Practice; Telemedicine

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time publication expense estimated at \$425 in FY 19-20 for the LA State Board of Medical Examiners (LSBME). Otherwise, the proposed change will not result in any additional costs for state or local governmental units.

The proposed change amends the rules governing the practice of physicians located in this state who utilize telemedicine in the care of their patients. Specifically, the proposed amendment deletes the words “in this state” regarding where a patient may receive telemedicine services for consistency with LA R.S. 37:1271(4)(a). Therefore, the administrative rules would not inadvertently prevent physicians from prescribing medication or other health care services to their patients who may be vacationing or temporarily outside of Louisiana, to the extent that such activities or practices are lawful and permitted by the medical licensing authorities in other jurisdictions.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may benefit Louisiana citizens while vacationing or temporarily outside of Louisiana who may continue to receive care from their Louisiana licensed physicians. The change may also benefit Louisiana licensed physicians by allowing them to provide continuity of care to their Louisiana patients who may be temporarily out of state. Given that

Louisiana medical licensure cannot authorize a physician to practice medicine beyond the borders of this state, Louisiana physicians seeking to accommodate their patients in this manner will need to verify their lawful authority to do so with the medical licensing authorities of the state in which their patient is located. The LSBME cannot estimate this cost or addition to a physician's workload.

IV. ESTIMATED EFFECT ON COMPETITION  
AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

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Executive Director  
1904#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office